limitation with the express qualification, 'Except as provided in Section 278'. Section 278(*c*) re-enacted the provision as to extension of time by the consent of the Commissioner and the taxpayer; and constituted the sole statutory authority for the waiver of the period of limitation for taxes due under the 1918 and 1921 Acts. It unquestionably applied to waivers thereafter to be executed; and no reason appears why it did not equally apply to waivers executed prior to the passage of the Act. Section 278(*d*) prescribed the period of limitation for the collection of taxes applicable to all cases enumerated in that section and Section 277, which expressly included taxes under the Act of 1918. The situations intended to be excluded from the limitations prescribed were carefully specified in Section 278(*e*): (1) assessments or collections already barred before the passage of that Act and (2) *assessments made and proceedings begun prior to that time. Neither of the cases at bar falls within those exceptions.* Since, in both cases, assessment and collection were not barred on the enactment of the 1924 Act, *and were made after that date,* the section is applicable. Compare Russell *v.* United States, 278 U. S. 181."

All of which is respectfully submitted.

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Washington, D. C.,
Counsel for Petitioner.

MASON, SPALDING & McATEE,
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No. 115

In the Supreme Court of the United States

OCTOBER TERM, 1930

W. P. BROWN & SONS LUMBER COMPANY, PETITIONER

v.

ROBERT H. LUCAS, COMMISSIONER OF INTERNAL REVENUE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT

MOTION TO ADVANCE

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Comes now the respondent in the above-entitled cause, by his counsel the Solicitor General, and moves to advance this case so that the following three cases may be heard consecutively:

No. 23, Charles H. Stange, petitioner, *v.* The United States; No. 69, Annette Aiken, administratrix of the estate of Fred M. Aiken, deceased, petitioner, *v.* Robert H. Lucas, Commissioner of Internal Revenue; and No. 115, W. P. Brown & Sons Lumber Company, petitioner, *v.* Robert H. Lucas, Commissioner of Internal Revenue.

A motion to the same effect has been made in No. 69, Annette Aiken, administratrix of the estate of Fred M. Aiken, deceased, petitioner, *v.* Robert H. Lucas, Commissioner of Internal Revenue, to which reference is made for the reasons in support of these motions to hear the three cases consecutively.

Opposing counsel concur in this motion.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.

JULY, 1930.

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